

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PHILIP A PAUL,

Petitioner,

v.

WASHINGTON STATE ATTORNEY
GENERAL, WESTERN STATE
HOSPITAL,

Respondents.

CASE NO. 3:16-CV-05056-BHS-DWC

ORDER FOR SERVICE AND
ANSWER, § 2254 PETITION

This federal habeas action was filed on January 21, 2016 pursuant to 28 U.S.C. § 2254. *See* Dkt. 1. Petitioner Philip A. Paul states he was committed to Western State Hospital after being acquitted of murder in 1987 by reason of insanity. *See* Dkt. 21. The original Petition challenged the fact and duration of Petitioner's confinement, but also challenged his conditions of confinement at Western State Hospital. Dkt. 3. On February 5, 2016, the Court ordered Petitioner to amend his Petition to include only claims related to the fact or duration of his confinement. Dkt. 4. After several extensions, Petitioner filed an Amended Petition, which did not comply with the Court's Order. *See* Dkt. 18. On July 26, 2016, the undersigned entered a Report and Recommendation, recommending the Amended Petition be dismissed for failure to

1 follow the Court's Order. Dkt. 19. After the Report and Recommendation was filed, Petitioner
2 filed his Second Amended Petition and Third Amended Petition. *See* Dkt. 20, 21.

3 On September 19, 2016, the District Judge assigned to this case declined to adopt the
4 Report and Recommendation because Petitioner appeared to be attempting to follow the Court's
5 Order when he filed the Second and Third Amended Petitions. Dkt. 22. The case was referred to
6 the undersigned for further proceedings.

7 The Court, having reviewed the Third Amended Petition, finds Petitioner has alleged
8 claims related to the fact and duration of his confinement. For example, Petitioner alleges he was
9 confused when his lawyer entered the plea. *See* Dkt. 21, p. 1. Because Petitioner is proceeding
10 *pro se* and has attempted to correct the deficiencies of his Petition three times, the Court finds, in
11 the interest of justice, service is appropriate in this case. Therefore, the Court hereby finds and
12 ORDERS as follows:

13 (1) The Clerk shall arrange for service by certified mail upon respondent and upon
14 the Attorney General of the State of Washington, of copies of the Third Amended Petition, of all
15 documents in support thereof, and of this Order. The Clerk shall also direct a copy of this Order
16 and of the Court's *pro se* instruction sheet to petitioner.

17 (2) Within ***forty-five (45) days*** after such service, respondent(s) shall file and serve an
18 answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases in United States
19 District Courts. As part of such answer, respondent(s) shall state whether petitioner has
20 exhausted available state remedies and whether an evidentiary hearing is necessary.
21 Respondent(s) shall not file a dispositive motion in place of an answer without first showing
22 cause as to why an answer is inadequate. Respondent(s) shall file the answer with the Clerk of
23 the Court and serve a copy of the answer on petitioner.

1 (3) The answer will be treated in accordance with LCR 7. Accordingly, on the face
2 of the answer, respondent(s) shall note it for consideration on the fourth Friday after filing.
3 Petitioner may file and serve a response not later than the Monday immediately preceding the
4 Friday designated for consideration of the matter, and respondent(s) may file and serve a reply
5 not later than the Friday designated for consideration of the matter.

6 (4) Filing by Parties, Generally

7 All attorneys admitted to practice before this Court are required to file documents
8 electronically via the Court's CM/ECF system. All non-attorneys, such as *pro se* parties and/or
9 prisoners, may continue to file a paper original with the Clerk. All filings, whether filed
10 electronically or in traditional paper format, must indicate in the upper right hand corner the
11 name of the magistrate judge to whom the document is directed.

12 For any party filing electronically, when the total of all pages of a filing exceeds fifty
13 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as
14 necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy must be
15 clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers."

16 Any document filed with the Court must be accompanied by proof that it has been served
17 upon all parties that have entered a notice of appearance in the underlying matter.
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1 (5) Motions

2 Any request for court action shall be set forth in a motion, properly filed and served.

3 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
4 part of the motion itself and not in a separate document. The motion shall include in its caption
5 (immediately below the title of the motion) a designation of the date the motion is to be noted for
6 consideration on the Court's motion calendar.

7 (6) Direct Communications with District Judge or Magistrate Judge

8 No direct communication is to take place with the District Judge or Magistrate Judge with
9 regard to this case. All relevant information and papers are to be directed to the Clerk.

10 Dated this 27th day of September, 2016.

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13 David W. Christel
14 United States Magistrate Judge
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